

KAREN L. LOEFFLER
United States Attorney

GARY M. GUARINO
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-2344
gary.guarino@usdoj.gov

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RICHARD HELMS,)	Case No. 3:11-cv-
)	
Plaintiff,)	
)	
vs.)	NOTICE OF REMOVAL
)	
BRADLEY LOGAN, M.D. and)	
NORTON SOUND HEALTH)	
CORPORATION, An Alaska)	
Corporation,)	
)	
Defendants.)	

The United States, through counsel, notifies this Court of the removal of this action from the Superior Court for the State of Alaska, Third Judicial District at Anchorage. The notice is based on the following:

1. Plaintiff filed a Complaint against Defendants Bradley Logan, M.D. and Norton Sound Health Corporation (NSHC) in the Superior Court for the State of Alaska, Third Judicial District at Anchorage, *Richard Helms v. Bradley Logan, M.D. and Norton Sound Health Corp.*, Case No. 3AN-10-10287 CI. Plaintiff has alleged medical malpractice tort claims for personal injury and compensatory damages against the Defendants for medical services Plaintiff allegedly received from the Defendants. A copy of the Complaint is attached with this Notice of Removal.

2. NSHC is an Alaska Native contractor that is funded and operated under a contract or compact between NSHC and the Department of Health and Human Services, Indian Health Service (DHHS / IHS), pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §§450a to n. *See* Declaration of DHHS counsel Meredith Torres attached with this Notice of Removal. For claims for personal injury resulting from the performance of medical, surgical, dental, or related functions, NSHC is deemed to be part of the Federal Public Health Service (PHS), pursuant to 25 U.S.C. §450f(d). Further, with respect to claims resulting from the performance of its ISDEAA contract or compact with the IHS, NSHC is deemed to be part of the IHS and any civil action

against NSHC involving such claims is deemed to be an action against the United States subject to the provisions of the Federal Tort Claims Act (FTCA), pursuant to 25 U.S.C. §450(f). Thus, Plaintiff's claims against NSHC are deemed to be an action against the United States under the FTCA.

3. The remedy provided by the FTCA for tort claims against the United States is the exclusive remedy and this Notice of Removal is brought pursuant to 25 U.S.C. §450f; 28 U.S.C. §§1331, 1346, 2679(b)(1); and 42 U.S.C. §233.

4. A Notice of Filing Removal of a Civil Action, together with a copy of this Notice are being filed with the State court where the action is pending.

RESPECTFULLY SUBMITTED this 1st day of April, 2011, in
Anchorage, Alaska.

KAREN L. LOEFFLER
United States Attorney

s/Gary Guarino
Assistant U.S. Attorney
222 West 7th Ave., #9, Rm. 253
Anchorage, AK 99513-7567
Phone: (907) 271-3379
Fax: (907) 271-2344
E-mail: gary.guarino@usdoj.gov
Alaska Bar No. 8209092

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2011,
a copy of the foregoing **UNITED STATES'**
NOTICE OF REMOVAL
was served via U.S. mail on

Richard J. Helms
Law Offices of Richard J. Helms
P.O. Box 100916
Anchorage, AK 99510

s/Gary M. Guarino